

STATE OF MICHIGAN
COURT OF APPEALS

COLLEEN MOELKE,

Plaintiff-Appellant,

v

McPHERSON HOSPITAL EMERGENCY
DEPARTMENT and LOREN CHUDLER, D.O.,

Defendants-Appellees.

UNPUBLISHED

May 11, 2004

No. 245415

Livingston Circuit Court

LC No. 02-019453-NH

Before: Bandstra, P.J., and Sawyer and Fitzgerald, JJ.

FITZGERALD J. (*concurring*).

I concur with the majority's conclusion because this Court is bound by the holding in *Holmes v Michigan Capital Medical Ctr*, 242 Mich App 703, 711-712; 620 NW2d 319 (2000) that an unsworn affidavit of merit does not satisfy the requirements of MCL 600.2912d(1). However, I agree with the sentiments in this case by long-time learned trial Judge Daniel A. Burrell that a notarization requirement "is a question of form over substance" where the affidavit otherwise satisfies the requirement of being "signed by a health professional who the plaintiff's attorney reasonably believes meets the requirements for an expert witness under section 2169"

/s/ E. Thomas Fitzgerald